IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

Civil Revision No.6216 of 2004
Date of decision: 06.09.2006

JAGIR MOHAMMAD

.....PETITIONER

VERSUS

MANJEET KAUR

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.

Present: Mr. Sanjiv Gupta,Advocate,
for the petitioner.
Mr.Amit Rawal, Advocate,
for the respondent.

AJAY KUMAR MITTAL,J.

In this revision petition filed under Article 227 of the Constitution of India, the tenant-petitioner has challenged order dated 07.12.2004 passed by the Rent Controller, Kurukshetra whereby provisional rent has been determined to be tendered by the tenant on a petition filed by the landlord claiming arrears of rent w.e.f 01.10.2001 to 30.09.2004. The landlord-respondent in his petition filed under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 for the ejectment of the tenant, claimed payment of rent @ Rs.6250/- per annum along with house tax.

The tenant on appearance disputed the rate of rent to be @ Rs.6250/- per annum and stated that he was inducted as a tenant by Mohan Lal on monthly rent of Rs.20/- including the house tax and the said property having been purchased by the landlord from Manohar Lal, the same rent was paid to him thereafter. According to the tenant rent was Rs.240/- per annum.

The Rent Controller determined the provisional rent as under:-

" 1.	Rent @ Rs.6250/- per annum w.e.f. 1.10.2001 to 30.09.2004	18750/-
2.	House tax @ 12-5%	2344/-
3.	Interest @ 8% on Rs.18750/-	2313/-
4.	Costs	593/-
	Total	24,000/-

".

The Rent Controller granted an opportunity to the tenant to tender the aforesaid provisional rent on or before 21.12.2004.

Learned counsel for the petitioner submitted that the Rent Controller has not given any reasons while assessing the provisional rent and has erroneously accepted the rate of rent as has been claimed by the landlord.

On the other hand, learned counsel for the respondent firstly controverted the submissions made by the learned counsel for the petitioner and submitted that while determining the provisional rent, the Rent Controller had rightly accepted the rate of rent as has been claimed by the landlord and numerous rent receipts issued by the landlord-respondent to the petitioner had been placed on record, which related to the period prior to the purchase of the demised premises by the landlord. He submitted that the Rent Controller has assessed provisional rent only and has granted opportunity to the tenant to pay the same, which is subject to the final determination by the Rent Controller. He placed reliance on the judgment of this Court passed in ***C.R.No.3020 of 2003 titled as Rajinder Lal vs. Gopal Krishan, decided on 31.03.2006*** and further submitted that in case the Rent Controller finally comes to the conclusion that rent as determined provisionally is the actual rent then no further opportunity is to be given to the tenant to deposit the arrears of rent as assessed by the

Rent Controller.

I have heard the learned counsel for the parties and perused the record.

A perusal of the order impugned herein shows that , while assessing the provisional rent the Rent Controller has prima facie accepted the claim of the landlord and on that basis provisional rent has been assessed. No infirmity could be found in the aforesaid order, the first contention of the counsel for the petitioner is, thus, rejected.

This Court in Rajinder Lal's case (supra) has held as under:-

> "*After harmoniously construing Conclusion Nos.4, 5 and 6, I am of the opinion that the failure to deposit provisional rent assessed will not entail passing of the eviction order. The eviction order can be passed only after conclusion of the trial after giving opportunities of hearing to the parties as required under Section 13(2) of the Act. If, however, the final order of the Rent Controller is in terms of the provisional rent assessed, the tenant is not entitled to any other opportunity to tender rent as he has failed to comply with the order of provisional assessment of rent. But in case, in the final order passed by the Rent Controller, rent determined is less than the order of provisional assessment of rent, the tenant would be entitled to another opportunity to make up the deficiency in respect of such arrears of rent. However, if the amount tendered is in excess, the tenant is entitled to refund. The above conclusion alone would be in tune with the principles of law laid down by the Hon'ble Supreme Court. It is*

preposterous to say that on failure of payment of provisional rent i.e. ad-interim order, the eviction order shall follow without giving a reasonable opportunity to the tenant to controvert the stand of the landlord on the basis of evidence led that such provisional rent was not correctly assessed".

In view of this, the revision petition is disposed of with a direction that in case at the time of passing of the final order, the Rent Controller comes to the conclusion that the provisional rent assessed is the actual rent, which was payable by the tenant and the same has not been deposited then the order of eviction shall follow without giving any further opportunity. However, in case the rent is finally found to be more than the provisional rent, an opportunity shall be provided to the tenant to deposit the same.

Counsel for the respondent prays that Rent Controller be directed to decide the case expeditiously.

In view of the above, the Rent Controller is directed to decide the case expeditiously.

September 6, 2006 **(AJAY KUMAR MITTAL)**
nt **JUDGE**